

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

DENNIS J. HOBBS,

Petitioner,

vs.

RANDY VALLEY AND THE
ATTORNEY GENERAL OF
MONTANA,

Respondents.

Cause No. CV 23-117-M-DLC-KLD

ORDER DENYING PETITION AND
DENYING CERTIFICATE OF
APPEALABILITY

This matter comes before the Court on Petitioner Dennis J. Hobbs' Petition for a Writ of Habeas Corpus. (Doc. 1.) Hobbs is currently incarcerated in Idaho. Hobbs' petition is barred by the statute of limitations and lacks merit. It will be dismissed.

I. Preliminary Review

Before the State is required to respond, the Court must determine whether "it plainly appears from the petition and any attached exhibits that the prisoner is not entitled to relief." Rule 4(b), Rules Governing § 2254 Cases in the United States District Courts. A petitioner "who is able to state facts showing a real possibility of constitutional error should survive Rule 4 review." *Calderon v. United States Dist. Court*, 98 F.3d 1102, 1109 (9th Cir. 1996) ("*Nicolas*") (Schroeder, C.J., concurring) (referring to Rules Governing § 2254 Cases). But the Court should

“eliminate the burden that would be placed on the respondent by ordering an unnecessary answer.” Advisory Committee Note (1976), Rule 4, § 2254 Rules.

II. Analysis

A one-year limitations period applies to petitions filed by state prisoners under 28 U.S.C. § 2254. *See* 28 U.S.C. § 2244. The Court’s prior Order explained to Hobbs that his petition was likely barred by this limitation. (Doc. 3.) Hobbs was directed to show cause why his petition was not barred and given directions for how he might make that showing. Hobbs has filed nothing further. The petition will be dismissed.

III. Certificate of Appealability

“The district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” Rule 11(a), Rules governing § 2254 Proceedings. A COA should issue as to those claims on which a petitioner makes a “substantial showing of the denial of a constitutional right.” 28 U.S.C. §2253(c)(2). The standard is satisfied if “jurists of reason could disagree with the district court’s resolution of [the] constitutional claims” or “conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

A certificate of appealability will be denied. Hobbs’ Petition is barred by the

statute of limitations, and no grounds exist for tolling the statute or evading its mandate.

Accordingly, the Court enters the following:

ORDER

1. Hobbs' Petition (Doc. 1) is DENIED and DISMISSED with prejudice.

The Clerk of Court is directed, by separate document, to enter Judgment in favor of Respondent and against Petitioner.

2. A certificate of appealability is DENIED.

DATED this 28th day of February, 2024.



Dana L. Christensen, District Judge
United States District Court